

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
CANDIES KASTNER,

Case No. 07 CV 2147

Plaintiff,

Judge Karas

-against-

A N S W E R  
\*\*\*\*\*

CIGNA LIFE INSURANCE COMPANY OF  
NEW YORK,

Defendant.  
-----X

Defendant, LIFE INSURANCE COMPANY OF NORTH AMERICA ("LINA"), sued herein erroneously as CIGNA LIFE INSURANCE COMPANY OF NEW YORK, by its attorneys, RUSSO, KEANE & TONER, LLP, as and for its Answer to the Complaint, sets forth the following, upon information and belief:

#### THE PARTIES

1. Denies knowledge or information sufficient to form a belief as to each and every allegation set forth in the paragraphs of the Complaint designated "1".
2. Denies each and every allegation set forth in the paragraphs of the Complaint designated "2".

#### JURISDICTION AND VENUE

3. Admits the allegations set forth in the paragraphs of the Complaint designated "3", "4", "5", "6", "7", "8", "9", "10", "12", "13", "16", "17", "18" and "32".
4. Denies each and every allegation set forth in the paragraphs of the Complaint designated "11", "14", "15", "19", "20", "21", "22", "23", "24", "25", "26", "27", "28", "29", "30" and "31".

#### AS AND FOR A FIRST AFFIRMATIVE DEFENSE

5. That plaintiff is not entitled to long-term disability benefits under the terms of the policy.

#### AS AND FOR A SECOND AFFIRMATIVE DEFENSE

6. Plaintiff's causes of action and any recovery to which plaintiff may be entitled, which

right of recovery is hereby specifically denied, are barred and/or limited to the provisions of the Employee Retirement Income Security Act, 29 U.S.C. § 1001, et. seq. and the decisions of the Supreme Court of the United States pertaining thereto.

**AS AND FOR A THIRD AFFIRMATIVE DEFENSE**

7. Plaintiff is not entitled to attorneys' fees and/or Pre-Judgment Interest.

**AS AND FOR A FOURTH AFFIRMATIVE DEFENSE**

8. Without admitting that plaintiff is entitled to any long term disability benefits under the terms of the long term disability policy, the defendant refers to the specific language of the policy and reserves its rights to offset against monthly benefits the amounts of other benefits which the plaintiff receives on account of her disability.

**WHEREFORE**, defendant, **LIFE INSURANCE COMPANY OF NORTH AMERICA ("LINA")**, sued herein erroneously as **CIGNA LIFE INSURANCE COMPANY OF NEW YORK**, demands judgment dismissing the complaint of the plaintiff together with costs and disbursements of this action.

Dated: New York, New York  
May 10, 2007

Yours, etc.

s/ Kevin G. Horbatiuk  
Kevin G. Horbatiuk (KH4977)  
RUSSO, KEANE & TONER, LLP  
Attorneys for Defendant(s)  
26 Broadway, 28th Floor  
New York, New York 10004  
(212) 482-0001  
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RKT File No. 820.255

TO: FRANKEL & NEWFIELD, P.C.  
Attorneys for Plaintiff  
585 Stewart Avenue, Suite 301  
Garden City, New York 11530  
(516) 222 1600

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State of New York, County of New York, ss:

Rose DeLuccio, being duly sworn, deposes and says:

That deponent is not a party of this action, is over 18 years of age and resides in the County of Richmond, State of New York.

That on May 10, 2007, deponent served the within ANSWER upon:

FRANKEL & NEWFIELD, P.C.  
585 Stewart Avenue, Suite 301  
Garden City, New York 11530

the address designated by said attorney(s) for that purpose, by depositing a true copy of same enclosed in a postpaid properly addressed wrapper in an official depository under the exclusive care and custody of the United States Post Office Department within the State of New York.

s/ Rose DeLuccio

Rose DeLuccio

Sworn to before me on  
May 10, 2007

s/Kathleen Cush

Kathleen Cush  
Notary Public, State of New York  
No. 01CU4824622  
Qualified in Kings County  
Commission Expires May 31, 2010